

REMARKS

Claims 1-22 were pending in the application. Claims 1-17 have been cancelled as being drawn to a non-elected invention. Thus, upon entry of this Amendment, claims 18-22 are pending in the application. Applicants submit herewith at the request of the Examiner, Appendix A which includes pending claims 18-22.

No new matter has been added. Applicants request that the amendments to the claims be entered. The foregoing claim cancellations should in no way be construed as an acquiescence to any of the Examiner's rejections and were made solely to expedite prosecution of the present application. Applicants reserve the right to pursue the claims as originally filed in this or a separate application(s).

Response to Restriction Requirement

The Examiner has required restriction to one of the following inventions under 35 U.S.C. 121:

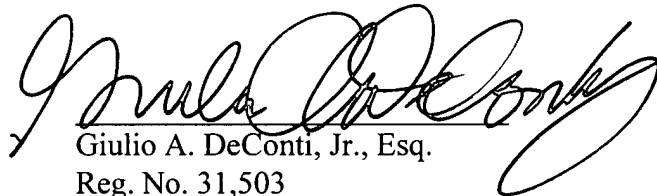
- I. Claims 1-5 and 7-9, drawn to an in vivo method of regulating expression of a tet operator-linked gene in a cell of a subject.
- II. Claims 1, 6 and 10-17, drawn to an ex vivo method of regulating expression of a tet operator-linked gene in a cell of a subject.
- III. Claims 18-22, drawn to a fusion protein that activates transcription comprising a tet repressor operatively linked to a polypeptide which activates transcription in eukaryotic cells.

Applicants hereby elect the Group III invention (claims 19-22) for prosecution, without traverse.

If a telephone conversation with Applicants' attorney would help expedite the prosecution of the above-identified application, the Examiner is urged to call Applicants' attorney at (617) 227-7400.

Respectfully submitted,

LAHIVE & COCKFIELD

A handwritten signature in dark ink, appearing to read "Giulio A. DeConti, Jr.", is written over a horizontal line.

Giulio A. DeConti, Jr., Esq.

Reg. No. 31,503

Attorney for Applicants

28 State Street
Boston, MA 02109
Tel. (617) 227-7400

Dated: **March 3, 2003**

APPENDIX A - PENDING CLAIMS

18. A fusion protein which activates transcription comprising a first polypeptide which is a Tet repressor operatively linked to a second polypeptide which activates transcription in eukaryotic cells.
19. The protein of claim 18, wherein the Tet repressor is a Tn10-derived Tet repressor.
20. The protein of claim 18, wherein the second polypeptide comprises a transcription activation domain of herpes simplex virion protein 16.
21. The protein of claim 19, wherein the second polypeptide comprises the C-terminal 130 amino acids of herpes simplex virion protein 16.
22. The protein of claim 18, wherein the second polypeptide comprises a transcription activation domain selected from the group consisting of an acidic transcription activation domain, a proline-rich transcription activation domain, a serine/threonine-rich transcription activation domain and a glutamine-rich transcription activation domain.